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and provisions regarding their payment.

[33 FR 10924, Aug. 1, 1968; 33 FR 11587, Aug. 15, 1968, as amended at 40 FR 8794, Mar. 3, 1975]

§ 170.2 Scope.

Except for persons who apply for or hold the permits, licenses, or approvals exempted in § 170.11, the regulations in this part apply to a person who is:

(a) An applicant for or holder of a specific byproduct material license issued pursuant to parts 30 and 32 through 36 and 39 of this chapter;

(b) An applicant for or holder of a specific source material license issued pursuant to part 40 of this chapter;

(c) An applicant for or holder of a specific special nuclear material license issued pursuant to part 70 of this chapter;

(d) An applicant for or holder of specific approval of spent fuel casks and shipping containers issued pursuant to part 71 of this chapter;

(e) An applicant for or holder of a specific license to possess power reactor spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation issued pursuant to part 72 of this chapter;

(f) An applicant for or holder of a specific approval of sealed sources and devices containing byproduct material, source material, or special nuclear material;

(g) An applicant for or holder of a production or utilization facility construction permit, operating license, or manufacturing license issued pursuant to part 50 of this chapter, or an early site permit, standard design certification, or combined license issued pursuant to part 52 of this chapter;

(h) Required to have examinations and tests performed to qualify or re-qualify individuals as part 55 reactor operators;

(i) Required to have routine and non-routine safety and safeguards inspections of activities licensed pursuant to the requirements of this chapter;

(j) Applying for or is holder of an approval of a standard reference design for a nuclear steam supply system of balance of plant;

(k) Applying for or already has applied for review, under 10 CFR part 52,

appendix Q, of a facility site prior to the submission of an application for a construction permit;

(l) Applying for or already has applied for review of a standardized spent fuel facility design; or

(m) Applying for or has applied for since March 23, 1978, review of an item under the category of special projects in this chapter that the Commission completes or makes whether or not in conjunction with a license application on file or that may be filed.

(n) An applicant for or holder of a license, approval, determination, or other authorization issued by the Commission pursuant to 10 CFR part 61.

(o) Requesting preapplication/licensing review assistance by consulting with the NRC and/or by filing preliminary analyses, documents, or reports.

(p) An applicant for or a holder of a specific import or export license issued pursuant to 10 CFR part 110.

(q) An Agreement State licensee who files for or is holder of a general license under the reciprocity provisions of 10 CFR 150.20.

(r) An applicant for or a holder of a certificate of compliance issued under 10 CFR Part 76.

(s) A holder of a general license granted by 10 CFR Part 31 who is required to register a device(s).

[49 FR 21301, May 21, 1984, as amended at 52 FR 8242, Mar. 17, 1987; 54 FR 15399, Apr. 18, 1989; 56 FR 31499, July 10, 1991; 58 FR 7737, Feb. 9, 1993; 64 FR 31469, June 10, 1999; 66 FR 32469, June 14, 2001]

§ 170.3 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto;

Advanced reactor means any nuclear reactor concept other than light water reactors and high temperature gas cooled reactors.

Agreement State means any State with which the Commission or the Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Act. "Nonagreement State" means any other State.

Application means any request filed with the Commission for a permit, license, approval, exemption, certificate,

other permission, or for any other service.

Balance of plant consists of the remaining systems, components, and structures that comprise a complete nuclear power plant and are not included in the nuclear steam supply system.

Byproduct material means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

Government agency means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

Greater Than Class C Waste or *GTCC Waste* means low-level radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55.

High Enriched Uranium means uranium enriched to 20 percent or greater in the isotope uranium-235.

Human use means the internal or external administration of byproduct, source, or special nuclear material, or the radiation therefrom, to human beings.

Indian organization means any commercial group, association, partnership, or corporation wholly owned or controlled by an Indian tribe.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided by the Secretary of the Interior because of their status as Indians.

Inspections means:

(1) Routine inspections designed to evaluate the licensee's activities within the context of the licensee having primary responsibility for protection of the public and environment;

(2) Non-routine inspections in response or reaction to an incident, allegation, follow up to inspection deficiencies or inspections to determine implementation of safety issues. A non-routine or reactive inspection has

the same purpose as the routine inspection;

(3) Reviews and assessments of licensee performance;

(4) Evaluations, such as those performed by Diagnostic Evaluation Teams; or

(5) Incident investigations.

Low Enriched Uranium means uranium enriched below 20 percent in the isotope uranium-235.

Manufacturing license means a license pursuant to Appendix M of part 52 of this chapter to manufacture a nuclear power reactor(s) to be operated at sites not identified in the license application.

Materials license means a license, certificate, approval, registration, or other form of permission issued or granted by the NRC under the regulations in 10 CFR Parts 30, 31 through 36, 39, 40, 61, 70, 72, and 76.

Nonprofit educational institution means a public or nonprofit educational institution whose primary function is education, whose programs are accredited by a nationally recognized accrediting agency or association, who is legally authorized to provide a program of organized instruction or study, who provides an educational program for which it awards academic degrees, and whose educational programs are available to the public.

Nuclear reactor means an apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

Nuclear Steam Supply System consists of the reactor core, reactor coolant system, and related auxiliary systems including the emergency core cooling system; decay heat removal system; and chemical volume and control system.

Other production or utilization facility means a facility other than a nuclear reactor licensed by the Commission under the authority of section 103 or 104 of the Atomic Energy Act of 1954, as amended (the Act), and pursuant to the provisions of part 50 of this chapter.

Part 55 Reviews as used in this part means those services provided by the Commission to administer requalification and replacement examinations and tests for reactor operators licensed

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pursuant to 10 CFR part 55 of the Commission's regulations and employed by part 50 licensees. These services also include related items such as the preparation, review, and grading of the examinations and tests.

Person as used in this part has the same meaning as found in parts 30, 40, 50, and 70 of title 10 of the Code of Federal Regulations.

Power reactor means a nuclear reactor designed to produce electrical or heat energy licensed by the Commission under the authority of section 103 or subsection 104b of the Act and pursuant to the provisions of § 50.21(b) or § 50.22 of this chapter.

Production facility means:

(1) Any nuclear reactor designed or used primarily for the formation of plutonium or uranium-233; or

(2) Any facility designed or used for the separation of the isotopes of plutonium, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(3) Any facility designed or used for the processing of irradiated materials containing special nuclear material except:

(i) Laboratory scale facilities designed or used for experimental or analytical purposes;

(ii) Facilities in which the only special nuclear materials contained in the irradiated material to be processed are uranium enriched in the isotope U²³⁵ and plutonium produced by the irradiation, if the material processed contains not more than 10⁻⁶ grams of plutonium per gram of U²³⁵ and has fission product activity not in excess of 0.25 millicurie of fission products per gram of U²³⁵; and

(iii) Facilities in which processing is conducted pursuant to a license issued under parts 30 and 70 of this chapter, or equivalent regulations of an Agreement State, for the receipt, possession, use, and transfer of irradiated special nuclear material, which authorizes the processing of the irradiated material on a batch basis for the separation of selected fission products and limits the process batch to not more than 100 grams of uranium enriched in the isotope 235 and not more than 15 grams of any other special nuclear material.

Reference systems concept means a concept that involves the review of an entire facility design or major fraction of a facility design outside of the context of a license application. The standard design would be referenced in subsequent license applications.

Research reactor means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at a thermal power level of 10 megawatts or less, and which is not a testing facility as defined by paragraph (m) of this section.

The phrase *review is completed* as used in this part means that the review has been brought to an end, whether by reason of issuance of a permit, license, approval, certificate, exemption, or other form of permission, or whether the application is denied, withdrawn, suspended, or action on the application is postponed by the applicant.

Sealed source means any byproduct material that is encased in a capsule designed to prevent leakage or escape of the byproduct material.

Source material means:

(1) Uranium or thorium, or any combination thereof, in any physical or chemical form; or

(2) Ores which contain by weight one-twentieth of one percent (0.05%) or more of

(i) Uranium,

(ii) Thorium, or

(iii) Any combination thereof. Source material does not include special nuclear material.

Special nuclear material means:

(1) Plutonium, uranium-233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material but does not include source material; or

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

Special projects means those requests submitted to the Commission for review for which fees are not otherwise specified in this chapter and contested hearings on licensing actions directly related to U.S. Government national

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security initiatives, as determined by the NRC. Examples of special projects include, but are not limited to, contested hearings on licensing actions directly related to Presidentially-directed national security programs, topical report reviews, early site reviews, waste solidification facilities, route approvals for shipment of radioactive materials, services provided to certify licensee, vendor, or other private industry personnel as instructors for part 55 reactor operators, reviews of financial assurance submittals that do not require a license amendment, reviews of responses to Confirmatory Action Letters, reviews of uranium recovery licensees' land-use survey reports, and reviews of 10 CFR 50.71 final safety analysis reports. Special Projects does not include those contested hearings for which a fee exemption is granted in § 170.11(a)(2), including those related to individual plant security modifications.

Testing facility means a nuclear reactor licensed by the Commission under the authority of subsection 104c of the Act and pursuant to the provisions of § 50.21(c) of this chapter for operation at:

- (1) A thermal power level in excess of 10 megawatts; or
- (2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:
 - (i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or
 - (ii) A liquid fuel loading; or
 - (iii) An experimental facility in the core in excess of 16 square inches in cross-section.

Uranium enrichment facility means:

- (1) Any facility used for separating the isotopes of uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or
- (2) Any equipment or device, or important component part especially designed for this equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

Utilization facility means any nuclear reactor other than one designed or used primarily for the formation of pluto-

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onium or U²³⁵ and any other equipment or device determined by rule of the Commission to be a utilization facility within the purview of subsection 11cc of the Act.

[33 FR 10924, Aug. 1, 1968, as amended at 36 FR 146, Jan. 6, 1971; 38 FR 30254, Nov. 2, 1973; 40 FR 8794, Mar. 3, 1975; 43 FR 7218, Feb. 21, 1978; 46 FR 58284, Dec. 1, 1981; 49 FR 21302, May 21, 1984; 54 FR 15399, Apr. 18, 1989; 55 FR 21179, May 23, 1990; 56 FR 31499, July 10, 1991; 57 FR 18394, Apr. 30, 1992; 57 FR 32707, July 23, 1992; 58 FR 38690, July 20, 1993; 59 FR 36917, July 20, 1994; 64 FR 31469, June 10, 1999; 66 FR 32469, June 14, 2001; 67 FR 42629, June 24, 2002; 67 FR 64036, Oct. 17, 2002]

§ 170.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by an officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 170.5 Communications.

All communications concerning the regulations in this part should be addressed to the NRC's Chief Financial Officer, either by mail to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; by hand delivery to the NRC's offices at 11555 Rockville Pike, Rockville, Maryland; or, where practicable, by electronic submission, for example, via Electronic Information Exchange, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/eie.html>, by calling (301) 415-6030, by e-mail to EIE@nrc.gov, or by writing the Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The guidance discusses, among other topics, the formats the NRC can accept, the use of electronic signatures, and the treatment of nonpublic information.

[68 FR 58825, October 10, 2003]